320

HIGH COURT OF CHHATTISGARH AT BILASPUR

W.P.(C) NO. 7486/2007

PETITIONER/ APPLICANT		Smt. Rita Tiwari, aged about 51 years, W/o. Dr. Harsh Vardhan Tiwari, Ex-Chairman, Indira Priyadarsini Mahila Nagrik Sahkari Bank Maryadit, Sadar Bazar, Raipur (CG), R/o. Gyan Parisar, P.O. Ravishankar University Campus, Raipur (CG)
	Versus	
RESPONDENTS/ NON-APPLICANTS	1.	State of Chhattisgarh, through : S.H.O. Police Station Kotwali, Raipur (CG) S.S.P. -S.P. Office, Raipur (CG)
	2.	Registrar, Co-operative Society of Chhattisgarh, Telibandha Road, Raipur (CG)
	3.	C.E.O. C.L.Thakur, Indira Priyadarshani Mahila Nagrik Sahkari Bank Maryadit, Sadar Bazar, Raipur (CG)

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITITION OF INIDA

(SB: Hon'ble Mr. **Satish K. Agnihotri, J.)**

Shri A.Pandey, counsel for the petitioner.
Shri Sumesh Bajaj, Government Advocate for the State.

ORAL ORDER

(Passed on this 17th day of December 2007)

1. Learned counsel appearing for the petitioner submits that the police has registered Crime Nos.167/06 and 07/07 at Police Station Kotwali, Raipur against the petitioner for the offence punishable under Sections 406,467,109,114,408,409,420,468 and 12 B of the IPC.

2. Learned counsel appearing for the petitioner submits that the petitioner was a Chairman of Indira Priyadarshini Mahila Nagrik Sahkari Bank Maryadit, Sadar Bazar, Raipur. She was responsible for taking policy decisions alone, not for execution of the work

321

including grant of loan to the parties. He further submits that the petitioner has been falsely implicated in the criminal offences as abovestated.

3. Learned counsel for the petitioner submits that action of the police is violative of Article 14, 20 and 21 of the Constitution of India. Learned counsel further submits that a police case has been registered and investigation has been initiated against the petitioner but no further progress had taken place against any other persons, who may be the real culprits and why the petitioner be arrested before the comlpletion of enquiry. Hon'ble Supreme Court, recently in the matter of ***Saiciri Vasu Vs. State of U.P. and Others*** Criminal Appeal No. 1685 of 2007, decided on 7th December 2007, wherein, the petitioner sought for investigation of the matter by the Central Bureau of Investigation (in short 'CBI'), has considered all the facts with regard to non registration of First Information Report by the police and no proper investigation by the police authorities, The Supreme Court observed as under :

> *11....."We would like to state that if a person has a grievance that the police station is not registering his FIR under Section 154 of the Cr.P.C., then he can approach the Superintendent of Police under Section 154(3) Cr.P.C. by an application in writing. Even if that does not yield any satisfactory result in the sense that either the FIR is still not registered, or that even after registering it no proper investigation is held, it is open to the aggrieved person to file an application under Section 156 (3) Cr.P.C. before the learned Magistrate concerned. If such an application under Section 156 (3) is filed before the Magistrate, the Magistrate can direct the FIR to be registered and also can direct a proper investigation to be made, in a case where, according to the aggrieved person, no proper investigation was made. The Magistrate can also under the same provision monitor the investigation to ensure a proper investigation."*

322

15. Section 156(3) provides for a check by the Magistrate on the police performing its duties under Chapter XII Cr.P.C. In cases where the Magistrate finds that the police has not done its duty of investigating the case at all, or has not done it satisfactorily, he can issue a direction to the police to do the investigation properly, and can monitor the same.

17. In our opinion Section 156(3) Cr.P.C. is wide enough to include all such powers in a Magistrate which are necessary for ensuring a proper investigation, and it includes the power to order registration of an F.I.R. and of ordering a proper investigation if the Magistrate is satisfied that a proper investigation has not been done, or is not being done by the police. Section 156 (3) Cr.P.C., though briefly worded, in our opinion, is very wide and it will include all such incidental powers as are necessary for ensuring a proper investigation."

4. The submission of learned counsel for the petitioner that the registration of a criminal case and investigation thereof is violative of Articles 14, 20 and 21 of the Constitution of India, is frivolous. Article 14 provides for right to equality before law, Article 20 provides for right to protection in respect of conviction for offences and Article 21 provides for right to protection of life and personal liberty. Bare reading of the above stated provisions, it appears that there is no infringement of any of the rights as abovestated (supra) to entertain this petition or to interfere with the investigation conducted by the police. Mere selfsame statement to the effect that the fundamental rights of the petitioner have been infringed, without there being any material to support the contention, is not sufficient to invoke the extraordinary jurisdiction of this Court. Learned counsel for the petitioner has failed to establish that the petitioner has been denied anywhere, right to equality of legal provision, right to protection of life and personal liberty, except according to the procedure established by law.

5. In view of the foregoing, the investigation cannot be stayed by this court. If the petitioner is not satisfied with the investigation or feels

323

that she has been wrongly implicated as accused, she is at liberty to take recourse to the legal provisions, as available under the provisions of law.

6. The petition is accordingly, dismissed with the above stated liberty.

Sd/-
Satish K. Agnihotri
Judge

Suguna